Remarks

This Amendment is in response to the Final Office Action dated **February 20, 2009 and is filed along with a Request for Continued Examination.** In the Final Office action, claims 1, 91-92, 94-96, 98-101 and 108 are rejected under 35 USC 102(e) over Nolting et al (US 6,488,701). Claim 93 is rejected under 35 USC 103(a) over Nolting as applied to claims 1, 90-92, 94-96, 98-101 and further in view of Ding et al. (US 6620194). Claims 97 and 105-107 are rejected under 35 USC 103(a) over Nolting US PN 6,488,701 as applied to claims 1, 91-92, 94-96, 98-101 and 108 and further in view of Jang US PUB 2004/0106985.

Claim 91 has been amended to better define the recited subject matter.

Claim 92 is herein amended to provide additional clarity and to recite, in-part, that the stent further comprises a layer of a second biocompatible coating disposed on the first biocompatible coating.

Claims 93-94 have been amended in light of the amendment to claim 92.

Claims 95 and 96 have been amended to recite that the first biocompatible coating comprises a polymer. Claim 97 has been amended to recite that first biocompatible coating comprises a drug.

Claims 98 and 99 have been amended to remove superfluous language.

Claim 108 has been amended to recite that the biocompatible coating comprises a polymer where the polymer contacts the outer metal surface. The polymer does not extend onto the outer metal surface of the middle portion of the stent.

Claims 109-123 are herein added. Support for these claims can be found in the specification at least in paragraphs [0032] and [0047], Figure 1 of the published application, and claims 1, 91-101, and 105-108.

No new matter has been added by any of the amendments.

In light of the foregoing amendments and following comments, Applicant requests reconsideration.

Claim Rejections – 35 USC § 102

Claims 1, 91-92, 94-96, 98-101 and 108 are rejected under 35 USC 102(e) over Nolting et al (US 6,488,701).

The rejections asserted in the Office Action under 35 USC § 102(e) are traversed because the applied references do not disclose the intraluminal stent recited in the rejected claims. The rejections propose an interpretation of the claimed subject matter that does not comport with the plain meaning of the claim language or Applicant's Specification.

Independent Claim 1

Independent claim 1, as amended, recites, in-part, an expandable intraluminal stent comprising:

> a main body portion having ... a metal outer surface and a metal inner surface ... and ... a biocompatible coating directly on at least the metal outer surface of the first end portion of the main body portion, wherein the biocompatible coating comprises a polymer or a drug contacting the metal surface, and wherein the metal outer surface and the metal inner surface of the middle portion are free of the polymer or drug.

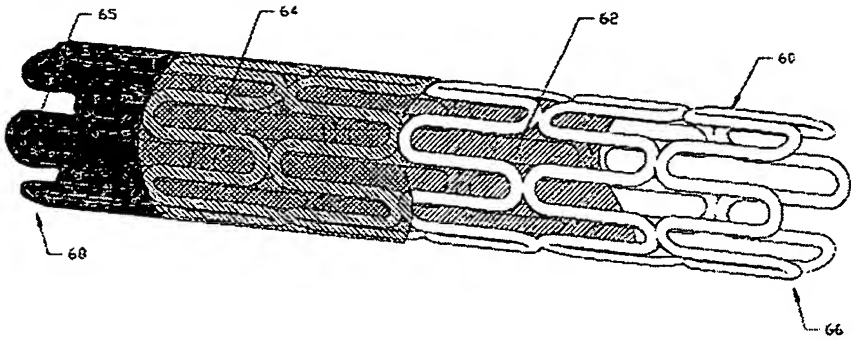
"A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." *Verdegall Bros., Inc. v. Union Oil Co.,* 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). Nolting does not disclose every element claimed in independent claim 1.

Nolting does not disclose a biocompatible coating directly on at least the metal outer surface of the first end portion of the main body portion, wherein the biocompatible coating comprises a polymer or a drug contacting the metal surface, and wherein the metal outer surface and the metal inner surface of the middle portion are free of the polymer or drug.

As shown below in Figure 8,[1] Nolting discloses a "stent (60), a first thin membrane (62) defining a luminal surface, a second thin membrane (64) defining a vascular surface and a coating (65)." Column 10, lines 1-4.

[1] Figure 8 is a partial, progressive cutaway view. Thus, the membrane 64 extends beyond that which is shown in the figure.

FIGURE 8



The Office Action stated, "[e]ach of the materials 64, 65 may dissolve in each other to form a homogeneous unitary coating layer ... which is structurally different from the membrane 64 present in the middle region." Final Office Action page 3, paragraph 4. Thus, the "Examiner considers the mixture of layers 64, 65 as the biocompatible coating..." *Id.* page 2, paragraph 1.

As shown above in Figure 8 of Nolting, the coating 65 is placed over the membrane 64 and is "bonded to the thin-walled membranes [62, 64] in the same manner as in the previous embodiments." Column 10, lines 11-12.

As shown below in Figures 4A and 4B of Nolting, and with regard to "previous embodiments," Nolting further states:

> the materials comprising both the coating (20) and the thin-walled membrane (21) are typically of chemically similar materials, preferably polyurethanes, such that when the assembly is subjected to a solvent, the coating and thin-walled membrane partially dissolve. The solvent can be introduced via a vapor deposition process. The assembly can be placed in an enclosed chamber with a super-saturated atmosphere of solvent. At the plurality of points at which they are in contact, the coating and thin-walled membrane dissolve together to form bonding regions in which the coating and thin-walled membrane become a homogeneous material. In other words, the coating and thin-walled membrane unite to define a unitary structure (24).

Column 8, line 63 – column 9, line 8.

FIGURE 4A

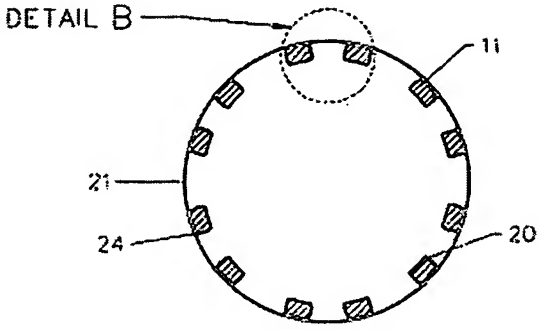
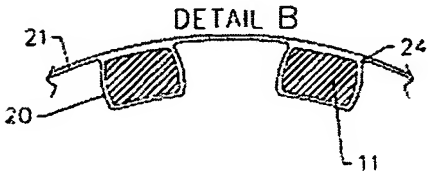


FIGURE 4B



Even though the coating 65 and membrane 64 have been partially dissolved to form "bonding regions," it is neither expressly nor inherently disclosed in Nolting that the alleged "coating" including the "bonding regions" (mixture of layers 64, 65) is disposed "directly" on the surface of the stent. There is no disclosure that the addition of a coating 65 and solvent to the outer surface of membrane 64 removes the membrane 64 from the surface of the stent.

Therefore, the membrane of Nolting extends over both the middle and the end regions. As such, Nolting does not disclose a stent wherein the middle portion is free of the polymer or drug which contacts the metal outer surface of the end portion.

We further note that the Office Action asserts, "[m]embrane 64 may be disposed only on either the luminal or vascular surface ... such that the opposite surface of the metal stent is free of any biocompatible material." Final Office Action, page 3, paragraph 4. Applicant notes that the claim recites "wherein the metal outer surface and the metal inner surface of the middle portion are free of the polymer or drug.

For at least the foregoing reasons, Applicant requests withdrawal of the rejection.

Independent Claim 108

Independent claim 108, as amended, recites:

> A stent having an outer metal surface, a first end portion and a second end portion and a middle portion, the first end portion having a biocompatible coating comprising a polymer, the polymer contacting the outer metal surface, wherein the polymer does not extend onto the outer metal surface of the middle portion of the stent.

Nolting does not disclose a stent having a biocompatible coating comprising a polymer where the polymer contacts the outer metal surface of the first end of the stent and wherein the polymer does not extend onto the outer metal surface of the middle portion of the stent.

Consequently, Nolting fails to disclose each and every element of independent claim 108. As a result, Applicant requests withdrawal of the rejection.

Claim Rejections – 35 USC § 103

Claim 93

The Office Action rejected claim 93 under 35 USC § 103(a) over Nolting et al. in view of Ding et al. (US Pat. No. 6,620,194).

Dependent claim 93 depends from claim 92. Dependent claim 93 recites that the first and second biocompatible coatings comprise the same coating material.

In rejecting claim 93 over Nolting in view of Ding, the Office Action asserts that "Nolting ... lack [sic] the express written disclosure of the coating including plural layers of the same coating material. Ding et al teaches ... multiple coating layers..." Final Office Action page 3, paragraph 7.

Any alleged teaching of Ding does not remedy the deficiencies of Nolting discussed above with respect to claim 1 and 92. Consequently, Applicant requests withdrawal of the rejection.

Claims 97 and 105-107

The Office Action rejected claim 93 under 35 USC § 103(a) over Nolting et al. in view of Jang (US Pub. No. 2004/0106985). Dependent claim 97 depends from claim 1 and recites that "the drug is paclitaxel, an RGD peptide-containing compound, tranilast, trapidel, probucol, or a combination thereof." Claims 105, 106, and 107 depend from claim 1 and similarly recite that the biocompatible coating comprises Tranilast, Tropidil, and Probucol, respectively.

Any alleged teaching of Jang does not remedy the deficiencies of Nolting discussed above with respect to claim 1. Consequently, Applicant requests withdrawal of the rejection of

dependent claims 97 and 105-107.

Conclusion

Based on at least the foregoing remarks and amendments, Applicant requests withdrawal of the rejection of claims 1, 91-101, and 105-123. Favorable consideration and prompt allowance of claims 1, 91-101, and 105-123 is earnestly solicited.

Should the Examiner believe that anything further would be desirable in order to place this application in better condition for allowance the Examiner is invited to contact Applicant's undersigned representative at the telephone number listed below.

Respectfully submitted,

VIDAS, ARRETT & STEINKRAUS

Date: July 14, 2009

By: /Jonathan Grad/
Jonathan Grad
Registration No.: 41795

6640 Shady Oak Dr., Suite 400
Eden Prairie, MN 55344-7834
Telephone: (952) 563-3000
Facsimile: (952) 563-3001
f:\wpwork\jg\06533us04_amd_20090227.doc